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JOINT APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY LLC AND AEP TEXAS INC. TO AMEND THEIR CERTIFICATES OF CONVENIENCE AND NECESSITY FOR A DOUBLE CIRCUIT 345-KV TRANSMISSION LINE IN PECOS, REEVES, AND WARD COUNTIES, TEXAS (SAND LAKE TO SOLSTICE)	§ § § § § § § § §	BEFORE THE PUBLIC UTILITY COMMISSION OF TEXAS
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APPLICANTS' REPLY TO EXCEPTIONS

TO THE HONORABLE PUBLIC UTILITY COMMISSION OF TEXAS:

COME NOW Oncor Electric Delivery Company LLC ("Oncor") and AEP Texas Inc. ("AEP Texas") (together, "Applicants") and file this Reply to Exceptions ("Reply"). Pursuant to the Office of Policy & Docket Management's letter filed in the docket on April 11, 2019, this Reply is timely filed on or before May 6, 2019.

I. REPLY TO EXCEPTIONS OF COMMISSION STAFF

Commission Staff ("Staff") of the Public Utility Commission of Texas ("Commission") filed exceptions to the Proposal for Decision ("PFD") regarding the administrative law judges' ("ALJs") adoption of route 320, including a recommendation to approve a modification to Link B2¹ proposed by Plains Marketing, L.P. and Plains Pipeline, L.P. (collectively, "Plains Pipeline").²

In response to the PFD, Staff specifically excepted to "the ALJs' assumptions about the costs of Plains Pipeline's proposed modification [to Link B2]" and requested that "the expected cost be included in the record for consideration by the Commission."³ Accordingly, Applicants file this Reply contemporaneously with their Motion to Reopen the Record and Admit Evidence Regarding the Cost of Proposed Link B2 Modification and accompanying Affidavit of Wilson P. Peppard Regarding the Estimated Cost of Proposed Link B2 Modification ("Affidavit") attached thereto as Oncor/AEPTX Exhibit 16.

¹ For a more thorough discussion regarding the ALJ-recommended Link B2 modification, Applicants' Exceptions to the PFD discusses how Link B2 modified differs from Link B2 as originally proposed. See Applicants' Exceptions, at 1-2 (Apr. 23, 2019).

² See PFD at 1 (Apr. 10, 2019).

³ See Commission Staff's Exceptions at 6 (Apr. 23, 2019).

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The Affidavit details the estimated cost associated with Plains Pipeline’s proposed Link B2 modification recommended by the ALJs in the PFD. Therefore, if admitted into the record, the Affidavit will address Staff’s exception pertaining to the ALJs’ cost assumption. That is, if the evidentiary record is reopened for the limited purpose of admitting the Affidavit into evidence, the record will reflect evidence regarding the expected cost of the ALJ-recommended Link B2 modification and quell any concerns that the ALJs made assumptions about the modification’s cost.

II. REPLY TO OXY AND COG

Oxy and COG continue to push for selection of Route 325 modified instead of original Route 320 as proposed in the Application and recommended in the PFD. As Applicants have noted in prior briefing, Route 320 remains the route that best meets the factors set forth in PURA and the Commission’s rules, but route 325 is a viable route that the Commission should also consider.

Oxy’s argument for adoption of route 325 modified focuses in part on a sentence in the PFD in which the ALJs note the lack of statements from Applicants or others rebutting Oxy’s contentions regarding health, safety, and lost revenues that could result without approval of route 325 modified.⁴ But Oxy ignores that the ALJs effectively considered Oxy and COG’s concerns on the project’s impact to their upcoming development speculative in part because they are based on assumptions about how future development may interact with the approved line route, not on the proximity of existing infrastructure to route 320 or other routes.⁵ Applicants have addressed these concerns, moreover, when discussing their practices with respect to all oil and gas facilities in proximity to the Proposed Transmission Line Project—not just those located on particular routes.⁶ And as both Oxy and COG acknowledge, Applicants have already provided active collaboration⁷ and “unprecedented” levels of cooperation⁸ in attempting to address their concerns.

Oxy excepts to the PFD’s “all or nothing” treatment of the requested route modifications.⁹ The PFD appears to suggest that approval of an individual route modification request cannot be granted unless all requested modifications for a given route have received applicable landowner consent, because the record does not indicate the effects that could result from a partially modified

⁴ PFD at 24. *See* Oxy’s Exceptions at 2, 9.

⁵ PFD at 24, 31-32. *See also* SOAH Order No. 5 (Jan. 30, 2019).

⁶ *See, e.g.*, Oncor/AEPTX Ex. 12 at 2-9 (Peppard Rebuttal); Oncor/AEPTX Ex. 14 at 1-5 (Reynolds Rebuttal).

⁷ Oxy Ex. 1 at 1 (Mendoza Cross-Rebuttal).

⁸ COG Exceptions at 9.

⁹ Oxy’s Exceptions at 12-14.

route.¹⁰ Applicants agree with Oxy that each requested route modification in this case should be considered individually. Applicants have provided information on estimated cost impacts of each requested modification,¹¹ and they have provided environmental data for the primary modified routes under consideration if all of Oxy and COG's requested modifications were to be adopted.¹² Regardless of which route the Commission ultimately selects, Applicants do not oppose the Commission's approval of all or any subset of Oxy or COG's proposed modifications for which they have obtained required landowner consents.¹³

These producers also support a grant of flexibility to Applicants to address engineering constraints encountered during project design and construction.¹⁴ Applicants respect the Commission's recent decisions re-affirming its policy on engineering constraints.¹⁵ To the extent the Commission elects to consider a narrower grant of post-approval routing flexibility to avoid engineering constraints, Applicants believe such limited flexibility could be reasonably restricted to situations in which (1) the modification is implemented only to the minimal extent necessary to avoid the engineering constraint; (2) the utility employs good utility practice; (3) the modification is located on a property without habitable structures; (4) the property is used primarily for oil and gas related purposes.¹⁶ Narrowly-tailored flexibility to address constraints could reduce the risk of delaying the construction of this critical reliability project, should such constraints arise.

III. CONCLUSION

Applicants respectfully request that the Commission issue a final order approving the Proposed Transmission Line Project along route 320 (or another route selected by the Commission). Applicants do not oppose the Commission's adoption of the route modification requested by Plains or those requested by Oxy and COG to the extent applicable landowner consents have been obtained.

¹⁰ PFD at 24.

¹¹ Oncor/AEPTX Ex. 12 at 12 (Peppard Rebuttal).

¹² Oncor/AEPTX Ex. 11 at 5 & Ex. RJM-R-7 (Marusak Rebuttal).

¹³ If the Commission approves some but not all requested modifications on a given route, Applicants could provide updated environmental data on the approved modified route if necessary. Applicants note that such updated environmental data would almost certainly reflect very minimal changes, if any. *Compare* Oncor/AEPTX Ex. 1, Attach. 1, Appendix E, Table 7-2 (environmental data for filed routes) *with* Oncor/AEPTX Ex. 11 at Ex. RJM-R-7 (environmental data for modified routes 41, 320, 324, 325 and 328).

¹⁴ *See, e.g.*, COG's Exceptions at 37-39.

¹⁵ *See, e.g.*, *Joint Application of Oncor Electric Delivery Company LLC and Brazos Electric Cooperative, Inc. to Amend Certificates of Convenience and Necessity for the Cogdell to Clairemont 138-kV Transmission Line in Kent and Scurry Counties*, Docket No. 47808, Order at 1 (deleting findings of fact relating to engineering constraints).

¹⁶ Oncor/AEPTX Ex. 12 at 11 (Peppard Rebuttal).

Respectfully submitted,

By: Winston Skinner *w/permission by A. Yates*

Jaren A. Taylor
State Bar No. 24059069
Winston P. Skinner
State Bar No. 24079348
VINSON & ELKINS LLP
Trammell Crow Center
2001 Ross Avenue, Suite 3700
Dallas, Texas 75201-2975
Telephone: (214) 220-7754
Facsimile: (214) 999-7754
jarentaylor@velaw.com
wskinner@velaw.com

**ATTORNEYS FOR ONCOR ELECTRIC
DELIVERY COMPANY LLC**

Kerry McGrath *w/permission by A. Yates*

Jerry N. Huerta
State Bar No. 24004709
American Electric Power Service Corporation
400 West 15th Street, Suite 1520
Austin, TX 78701
(512) 481-3323
(512) 481-4591 (fax)
jnhuerta@aep.com

Kerry McGrath
State Bar No. 13652200
Duggins Wren Mann & Romero, LLP
600 Congress Avenue, 19th Floor
Austin, Texas 78701
(512) 744-9300
(512) 744-9399 (fax)
kmcgrath@dwmrlaw.com

ATTORNEYS FOR AEP TEXAS INC.

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing has been hand-delivered or sent via courier service, email, fax, overnight delivery, or first class United States mail, postage prepaid, to all parties of record in this proceeding, on the 6th day of May, 2019.

Kerry McErath w/permission
by A. Yates